Act and forbad discrimination, with a proviso that nothing in the Act should prevent telegraph companies from entering into contracts with common carriers for the exchange of services. Thereafter the telegraph company refused to convey "off-line" messages at less than its rates to the general public. The plaintiff sought to compel the defendant to perform its contract. *Held,* that the contract was invalid as to "off-line service" at less than the rates to the public. *Chicago G. W. R. R. Co. v. Postal Telegraph Cable Co.* (1917, N. D. Ill.) 245 Fed. 592.

The opinion contains a careful review of the legislation and authorities bearing on the point. A contrary ruling was made in *Baltimore & Ohio R. R. Co. v. Western U. T. Co.* (1917, S. D., N. Y.) 241 Fed. 162,—a decision which is said in the principal case to have been affirmed by the Circuit Court of Appeals for the Second District.

TORTS—LABOR UNIONS—INJUNCTION AGAINST ATTEMPTING TO UNIONIZE MINE BY PEACEFUL MEANS.—The plaintiff, owner of a coal mine in West Virginia, asked an injunction to restrain the officers and agents of the United Mine Workers of America from taking steps to "unionize" the plaintiff's mine without its consent. The employees of the plaintiff were working under contracts permitting them to withdraw from the plaintiff's employ at any time, and on the understanding that if they joined the United Mine Workers they were to cease working for the plaintiff. The acts of the officers and agents of the union consisted in: (1) peacefully urging the plaintiff's employees to join or to agree to join the union; (2) getting those who agreed to join, but who had not formally joined, to remain at work and to conceal the fact that they had agreed to join; (3) certain acts described by the court as going beyond "mere persuasion" and amounting to "deception and abuse," "misrepresentation, deceptive statements, and threats of pecuniary loss," but not including intimidation or threats of physical injury. The jurisdiction of the federal court depended entirely upon diversity of citizenship. *Held,* that the acts of the defendants were illegal under the common law of West Virginia and should be enjoined. Brandeis, Holmes and Clarke, JJ., *dissenting. Hitchman Coal & Coke Co. v. Mitchell* (1917) 38 Sup. Ct. 65.

The decision reverses that of the United States Circuit Court of Appeals, reported in 214 Fed. 685, and with slight modifications restores that of the District Court, reported in 202 Fed. 512. A discussion of this case will appear next month.

WORKMEN'S COMPENSATION ACT—INJURY AGGRAVATING PREVIOUSLY EXISTING DISEASE.—The claimant broke his leg bone while engaged in a hazardous occupation in the employ of the defendant. He was previously afflicted with congenital syphilis, and the accident so aggravated the disease that he became totally blind. *Held,* that the claimant was not entitled to compensation for permanent total disability due to loss of eyesight, but only to compensation for the period during which the leg was disabled. *Borgsted v. Shults Bread Co.* (1917, App. Div.) 167 N. Y. Supp. 647.

Two judges dissented, in spite of the statement of Woodward, J., for the majority that "the purpose of the Workmen's Compensation Law was not to abrogate the divine law that the 'sins of the fathers shall be visited upon the sons, even to the third and fourth generation.'"

WORKMEN'S COMPENSATION ACT—INJURIES "ARISING OUT OF AND IN THE COURSE OF EMPLOYMENT"—EMPLOYEE INJURED WHILE ASLEEP.—The claimant was employed as a driver. After working on his wagon for several hours in cold weather he came inside and sat down near the boiler to wait until an adjacent

elevator was available for certain work he was required to do. While so waiting he fell asleep and a spark or the heat from the boiler fire set fire to his clothes and caused the burns for which compensation was sought. The respondent contended that the injury did not arise out of and in the course of employment. *Held,* that the claimant was entitled to compensation. *Richards v. Indianapolis Abattoir Co.* (1917, Conn.) 102 Atl. 604.

A night watchman employed by the defendant took a seat near an open doorway on the second floor of the defendant's building, "dozed off" and, while asleep, fell through the doorway and was killed. His widow filed a claim under the Workmen's Compensation Act. An award in her favor was affirmed by the Appellate Division. *Held,* that the deceased's injury did not arise out of and in the course of his employment. *Gifford v. T. G. Patterson, Inc.* (1917, N. Y.) 117 N. E. 946.

The Connecticut opinion states that the accident happened while the employee was on duty at a place where he might reasonably be, and that the fact that he fell asleep was at most merely negligence, which under the Act did not defeat his claim. The lower New York court took a similar view of the night watchman's conduct (165 N. Y. Supp. 1043) but the Court of Appeals held that such a conclusion could not be justified because the watchman's conduct was directly contrary to the object of his employment.

WORKMEN'S COMPENSATION ACT—"PERSONAL INJURY BY ACCIDENT"—DISEASE.—The defendant furnished drinking water to the employees of his factory. The water became infected and the claimant thereby contracted typhoid fever and was temporarily disabled. The Minnesota Compensation Act provides for compensation for personal injury by accident, defining "accident" to be "an unexpected or unforseen event, happening suddenly or violently, . . . and producing at the time, injury to the physical structure of the body." *Held,* that the claimant's illness was not a personal injury by accident as defined in the statute. *State v. District Court* (1917, Minn.) 164 N. W. 810.

This case is noteworthy chiefly as calling attention to a commendable attempt in Minnesota to clear up by express statutory definition a question which has been left in doubt under other workmen's compensation acts. For a discussion of the general question with special reference to the Massachusetts act, see 27 YALE LAW JOURNAL, 144.